

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent No.: 7,101,550

Inventors: Clive Wood et al.

Serial No: 10/068,215

Filed: February 6, 2002

For: PD-1, A RECEPTOR FOR B7-4, AND
USES THEREFOR

Art Unit: 1644

Attorney Docket No. DFS-067.02

Examiner: OUSPENSKI, ILIA I

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

Sir:

Patentees request reconsideration under 37 C.F.R. § 1.705(d) of the patent term adjustment ("PTA") indicated in the Issue Notification and in the patent upon issuance. The Commissioner is authorized to charge the fee required under 37 C.F.R. § 1.18(e), or any other fee required by the filing of this paper, to Deposit Account No. 06-1448, ref. DFS-067.02.

The patent issued with an indicated PTA of 287 days. For the reasons given below, Patentees request correction of the PTA to 402 days, or, in the alternative, to 375 days, 334 days, 314 days, or 307 days.

This Request is timely because (1) it is filed within two months of the patent's issuance,¹ and (2) it raises only issues that could not have been raised in a request under 37 C.F.R. § 1.705(b), as it concerns issues that arose after the mailing of the Notice of Allowance.

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¹ The patent issued on September 5, 2006. The date which was two months after this date, November 5, 2006, was a Sunday. This request is timely filed on the next succeeding business day. See 37 C.F.R. § 1.7(a).

Notification was an indication to Patentees that the Office had scheduled issuance of the patent on September 5, 2006, and that no further information or submission was required from the Applicant to complete the issuance process. The formal drawings must have been reviewed and accepted; otherwise, the Office of Patent Publication would not have authorized the mailing of the Issue Notification. Hence, any delay attributable to Patentees did not occur once the Issue Notification had been mailed and final preparations for issuance were underway.

On this theory, and if the Amendment after Allowance is not considered as constituting failure to engage, the total post-allowance delay attributable to Patentees is the period from the filing of the formal drawings to the mailing of the Issue Notification, or 87 days instead of 134 days, which would result in an increase in the PTA of 47 days to 334 days. If the Amendment after Allowance is considered to constitute failure to engage, then the 27 days from the filing of the Amendment to the filing of the formal drawings is attributable to Patentees, whose total attributable delay would then be 114 days instead of 134 days, which would result in an increase in the PTA of 20 days to 307 days.

For the reasons given above, Patentees ask the Office to correct the PTA to 402 days, or, in the alternative, to 375 days, 334 days, 314 days, or 307 days.

Respectfully submitted,
FOLEY HOAG LLP

Dated: November 6, 2006
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